

THE PRESIDENT: Amendment No. 16A is offered as a substitute to 16 by Delegate Clagett.

Is there a second?

*(Whereupon, the amendment was duly seconded.)*

THE PRESIDENT: The amendment having been seconded, the Chair recognizes Delegate Clagett.

DELEGATE CLAGETT: Mr. Chairman, a moment ago I stated that when section 7.06 came before this body sitting as a Committee of the Whole, it contained two limitations upon action by the General Assembly; one was a limitation that the General Assembly should act only by general law with certain exceptions, and one was a limitation that any public general law would not permit a county to be exempted from it. Those are the two limitations.

Now, I propose to read section 7.06 in order that you will be able to judge for yourself that that section provided for the exceptions dealing with the areas of instrumentalities of the State, appropriations, etc., to apply only to the restriction or limitation with respect to the enactment of general laws.

This is the way section 7.06 read: "Except as otherwise provided in this constitution and except with respect to appropriations and laws providing for and regulating the power of departments, agencies, or instrumentalities of the State performing a state and not a local function, the General Assembly shall enact no public local laws and shall enact only public general laws which are defined as laws which in their terms and effect apply throughout the State. The General Assembly may nevertheless enable any county or counties to exercise any power or perform any function denied to other counties subject to such standards as the General Assembly may prescribe. No county shall be exempt from general law."

Now, it is that limitation upon the General Assembly, that no county shall be exempt from a public general law, which I wish to see included in the present section 3.23.

When I first started work back in 1965 as Chairman of the Local Government of the Constitutional Convention Commission, our study of the practices in the General Assembly, particularly those dealing with the practice of exempting from a general law a county or counties, we found that

was a method of trading back and forth identified as backscratching and log rolling.

At that time the decision was made that there would be a specific limitation with respect to the continuance of that practice. That decision of the Local Government Committee of the Constitutional Convention Commission was endorsed by the Commission itself, and if you have carefully read your local government article you will find that therein contained is a specific prohibition or limitation upon the General Assembly that when it passes a general law no county shall be exempt therefrom.

That carried into the consideration of the Committee on the Local Government. As the recommendation of that Committee came forward to this body and was considered when we sat as a Committee of the Whole, we endorsed the principle that that limitation was to be continued in the constitution, and specifically that when the General Assembly passed a general law, no county was to be exempt therefrom.

Now, a careful reading of the deleted language in section 3.23 will bear me out along that basis. However, after the Style Committee deleted the language, we wrote the language, and then wrote into this section the following: "The General Assembly shall enact no public laws except general laws which in their terms and effects apply throughout the State. No county shall be exempt from a public general law."

Up to that point it is in conformity with the intent of the Committee as expressed in 7.06, but here is where the difference is. It says, "The General Assembly shall have the power notwithstanding the limitations imposed by this section to enact laws", and then sets forth the eight exceptions wherein the General Assembly has lifted from it the limitation with respect to passing only general laws and is allowed to pass a local law, but in the plural, in the word limitations. Likewise the General Assembly has lifted from it the limitation with respect to that when it passes a general law that counties may not be exempt from it.

THE PRESIDENT: You have a little less than one minute, Delegate Clagett.

DELEGATE CLAGETT: Therefore, my language as suggested in the Amendment No. 16A restores the original meaning of the Committee and that language, I submit to you, is clear and very similar to that suggested in 16-A except that it clearly spells out that there is only one limitation that is being lifted from the